

CITY COURT OF ZACHARY  
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SMALL CLAIMS DIVISION

**WHAT IS SMALL CLAIMS COURT?**

The Small Claims Division is a part of the Zachary City Court established pursuant to Louisiana Revised Statutes 13:5200-5121. You may sue to resolve minor civil disputes and to recover claims of up to \$5,000.00. A claim, generally speaking, asserts a legal right you may have.

You may use the Small Claims Court to sue someone who LIVES within the city limits of Zachary. You may also sue in Small Claims Court if you were injured within the city limits of Zachary regardless where the party causing you injury may live. Otherwise, the Court's authority to handle cases affecting defendants who do not reside within the Zachary City limits depends on numerous factors that warrant professional legal advise.

You must be EIGHTEEN (18) YEARS OF AGE to file a case in Small Claims court, but minors and incompetents may sue through a parent or guardian. Minors cannot be sued unless through their parent or guardian.

**PLEASE REMEMBER: THE CLERKS ARE NOT ALLOWED TO GIVE LEGAL ADVICE. THEREFORE, YOU MAY WISH TO CONSULT WITH AN ATTORNEY BEFORE YOU FILE YOUR OWN CLAIM. ATTORNEYS ARE NOT ALLOWED TO PARTICIPATE IN SMALL CLAIMS COURT.**

**WHAT KIND OF SUITS MAY BE FILED IN THE SMALL CLAIMS COURT?**

You may sue if you believe someone owes you money. For example, you may sue if:

- Someone fails to return a deposit to you;
- Products that you purchased are defective and the seller refuses to repair, refund or replace;
- You suffer loss or injury as a result of the negligence or intentional misconduct of another;
- Your employer fails to pay wages, salaries or commissions you are due;
- You seek possession of personal property you are due (but not real estate)

The following types of cases **MAY NOT** be instituted in the Small Claims Court:

- Suits involving annulment, separation, divorce, alimony, separation of property, temporary restraining order or injunction, succession, interdiction, receivership, liquidation, habeas corpus, or the title to real estate;
- Suits against a state agency, parish, municipality or other political subdivision;
- Suits against a public official performing official duties

**HOW DO I SUE IN SMALL CLAIMS COURT?**

Come to the Zachary City Court which is located at 4510 Main Street, Zachary, Louisiana, in the Zachary Police/Court Complex. The court costs for filing a Small Claims suit must be paid when suit is filed. Service is attempted initially by Certified Mail to defendant. If you wish to expedite service, you may request the Marshal serve the papers at an additional cost. All court costs are normally assessed against the party ultimately losing the lawsuit, but may be assessed against either party.

**SMALL CLAIMS COURT COSTS:**

New Small Claims Suit	\$85.00 (service by certified mail)
Each additional defendant	\$45.00 (service by certified mail)
New Small Claims Suit	\$160.00 (service by Marshal inside city limits)
Each additional defendant	\$85.00 (service by Marshal inside city limits)
New Small Claims Suit	\$200.00 (service by Sheriff outside city limits)
Each additional defendant	\$90.00 (service by Sheriff outside city limits)

**YOU MUST HAVE WITH YOU:**

The complete and proper legal name and address of the party you wish to sue. This party is called the **"DEFENDANT"**. You will be the **"PLAINTIFF"**.

If a business is being sued, call the Corporation Division of the Louisiana Secretary of State at (225) 925-4704 to find out if the business is incorporated, or if it is simply using a "trade name" and is not incorporated.

If the business is incorporated, you should request the name and address of the REGISTERED AGENT for the corporation. That is the individual who will receive "service" or notice of the suit. You should also find out the address of the REGISTERED OFFICE of the corporation, as this is the corporation's "residence".

If the business is not incorporated, you must find the NAME AND ADDRESS OF THE OWNER. You can write Motor Vehicles Registration, 7701 Independence Blvd., Baton Rouge, Louisiana and request this information. There will be a \$2.00 fee.

You may wish to file in the suit record copies of written evidence that would help support your claim in court, such as:

Contracts	Repair Estimates (2 or more)
Leases	Letters/Written Records
Receipts	Promissory Notes
Paid Bills	Cancelled Checks

Bring any document or other evidence you believe would be helpful in proving your case to the Court at the time of your trial.

**FILING YOUR CLAIM:**

1. The Clerk will give you a form entitled "Statement of Claim and Citation". Be prepared to provide the following information:

- Your name, address and daytime telephone number.
- The correct name and address of the party you are suing. If it is a corporation, you will need the proper name and address and the registered agent's name and address;
- A simple but COMPLETE statement of why you are suing. This should include dates, places and persons as they relate to your claim; and the total amount of money you are trying to recover with an itemization and explanation.

Remember: The limit is \$5,000.00 excluding interest and court costs.

If you receive a judgment in your favor, you can claim interest on the sum of money owed running from the date you originally filed suit until the money is actually paid. This is known as "judicial interest" and the rate is fixed by law.

**WHAT HAPPENS AFTER YOU FILE SUIT?**

If the defendant is to be served at an address within the city limits, the Clerk's Office will forward the defendant's copy of your Statement of Claim and Citation, which includes an "ATTENTION SHEET" to the City Marshal for "service" or delivery on the defendant. This "attention sheet" informs the defendant that he has been sued and will have ten (10) calendar days (inclusive of holidays and weekends) in which to answer.

It is the defendant's right to request that the action be transferred from the Small Claims Division to the regular civil docket. A written motion requesting this transfer must be filed with the Clerk's Office within the same ten (10) calendar days allowed for the defendant's answer to be filed. A copy of the defendant's answer will be mailed to you. Transferring the case to the regular civil docket preserves both parties' the right to appeal an unfavorable judgment of the Court. An appeal would permit a review of the trial judge's ruling by a higher court to determine whether the judge properly applied the law to the facts of the case. Transfer to the regular trial division also means that there will be no relaxation of the rules of evidence or restrictions upon attorneys' participation. In such cases, you should be alerted to the advisability of hiring an attorney.

**HOW DO I PREPARE FOR COURT?**

You, as the plaintiff, have the burden of proving your case before the judge at a trial by a "preponderance of the evidence". This is a balancing test by which the judge weighs the probabilities of accuracy of each party's respective claim. Your evidence, as the plaintiff, must be greater (at least 51%) for you to win your case. The following may be helpful in preparing for your trial:

1. Arrange for WITNESSES. These are people who saw what happened or have personal knowledge that might help your case. Have them arrive in court on the hearing date. If a witness will not agree to appear voluntarily, you may ask the clerk to subpoena him/her. (There is a **\$50.00** filing fee for each subpoena issued.) If a witness is not subpoenaed and does not appear at the hearing, his absence will not ordinarily constitute good grounds for a postponement or continuance of your case. In such cases, you may be required to proceed to trial even if your "unsubpoenaed" witness fails to appear.
2. Gathering all the evidence that relates to your claim or your defense if you are suing, or being sued. This includes photographs, contracts, receipts, promissory notes, letters, cancelled checks, written agreements, or other written material as well as physical objects. **BRING THIS EVIDENCE TO COURT WITH YOU ON THE TRIAL DATE** unless it has previously been filed in the suit record.
3. Go over the facts and organize them in your mind. You may want to make an outline of all important facts to bring out since this will probably be your only opportunity to present evidence. If settlement is reached prior to trial, notify the Clerk's office immediately so that your case may be deleted from the Court's docket. If you find that you are unable to attend court at the date and time set, you **MUST IMMEDIATELY** notify the court **IN WRITING** to seek a continuance. Continuance requests that do not reflect the consent of the opposing party are not automatically granted and must be supported by good cause.

## WHAT IF SOMEONE SUES ME?

If you have been served with a Citation, you are referred to as the "Defendant" in the matter. Most importantly, **DO NOT IGNORE** the Statement of Claim and Citation and Attention Sheet if you wish to contest the claim against you. Initially, you must decide if you wish to hire an attorney to represent you. Secondly, you must decide whether you wish to transfer the case to the regular civil docket. Removal would enable you to preserve your right to appeal any unfavorable judgment. However, you should be aware that the appeal process can be lengthy and costly and may require that you hire an attorney. Transfer fee to regular civil docket is payable by you the "defendant" and the charge is **\$10.00**.

If you decide to contest the case over any issue, you **MUST** file an answer **IN WRITING** with the Clerk's Office within the ten (10) day period allowed.

## WHAT HAPPENS AT TRIAL?

1. Arrive early and bring all court papers with you.

If you are the party suing and arrive late, or do not appear at all, your case may be **DISMISSED**.

If you are the party being sued and arrive late, or do not appear at all, a judgment could be entered against you. In other words, **YOU MAY LOSE WITHOUT A HEARING**.

2. If you are **SUING** and the other party is not there, you must still show proof of your claim before you can get a judgment in your favor.

If you are **BEING SUED** and the other party is not there, you may ask that the case against you be dismissed (so you will win the case).

3. You will have the opportunity at trial to present your witnesses and evidence, and the opportunity to pose questions to your opponent(s). Additionally, you may be asked to answer your opponent's questions. The procedure will be more relaxed and informal than an ordinary trial, with the judge asking questions himself in an effort to understand the case and ascertain the truth.
4. After all of the testimony is taken, the judge will announce the decision regarding which party has won the case and the amount of any judgment, if a sum of money is awarded. There are times

when the judge will not render a decision immediately after the trial but rather take the matter "under advisement" in order to conduct research. You will be notified by mail of the decision.

A judgment rendered in Small Claims Division becomes final and executory three days after it is signed or served on the defendant when service is necessary, unless within that period of time a "Motion For New Trial" is filed. A judgment establishes that the defendant does or does not owe you money. IT DOES NOT NECESSARILY MEAN YOU WILL BE PAID.

#### **IF I WIN, HOW DO I COLLECT MY MONEY?**

- I. It is **NOT** the duty or the function of the court to automatically pay or collect what is owed to you. **IT IS YOUR RESPONSIBILITY TO TAKE ANY AND ALL LEGAL ACTION NECESSARY TO COLLECT ON YOUR JUDGMENT.**
2. In order to collect, you may have to take further action; such as a garnishment of the losing party's bank account or wages, or "seizure and sale" on certain non-exempt property belonging to the defendant. Additional court cost deposits are required for these actions, which, like other costs of court, are recoverable from the losing party.
3. If you do not know of any assets belonging to the losing party that you could seize, you may request a "**JUDGMENT DEBTOR EXAMINATION**" for an oral examination as to the existence and whereabouts of the defendant's assets. The advance court costs deposit is **\$50.00** for filing this action (an additional \$45.00 would be charged if service is outside the city limits). It is not a new trial or hearing. You will be allowed to orally examine the defendant (who will be under oath) regarding his assets, employment, etc., at a place suitable for such examination, usually inside the court conference room. This information may help you in finding other legal means for collection on your judgment.